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November 24, 2021

Mr. David L. Parks
Interim Executive Director of HPSA (Health Plan Service Administration)
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.
2101 East Jefferson Street
Rockville, MD 20852

Re: Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.
2020 Network Adequacy Access Plan Filing

Dear Mr. Parks:

The Maryland Insurance Administration (“Administration”) has completed its review of the Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. 2020 Network Adequacy Access Plan (the “KFHP 2020 Access Plan”) filed on July 1, 2020, supplemented with additional information and documentation on April 26, 2021, May 27, 2021, June 25, 2021, and August 30, 2021. This filing was made pursuant to § 15-112(c)(2)(i) of the Insurance Article and COMAR 31.10.44.

KFHP 2020 Access Plan

The Administration’s review of the KFHP 2020 Access Plan has found that the access standards in COMAR 31.10.44.04 and .05 were not met for the following, based on the data self-reported by KFHP. All other access standards in COMAR 31.10.44 were met.

Travel Distance Standards

1. Gynecology only providers met the required standard for 98.8% of urban enrollees, leaving 908 members outside the travel distance standard of fifteen miles in six zip codes. The standard was met for 98% of suburban enrollees, leaving 952 members outside the travel distance standard of thirty miles in six zip codes.

2. Applied behavioral analyst providers met the required standard for 99.4% of urban enrollees, leaving 877 members outside the travel distance standard of fifteen miles in two zip codes. The standard was met for 99.7% of suburban enrollees, leaving 341 members outside the travel distance standard of twenty miles in four zip codes.
3. Endocrinology providers met the required standard for 99.9% of urban enrollees, leaving 20 members outside the travel distance standard of twenty miles in two zip codes.
4. Ophthalmology providers met the required standard for 99.9% for suburban enrollees, leaving 21 members outside the travel distance standard of twenty miles in two zip codes.
5. Podiatry providers met the required standard for 99.9% of urban enrollees, leaving 66 members outside the travel distance standard of fifteen miles in one zip code.
6. Rheumatology providers met the required standard for 98.7% of urban enrollees, leaving 2,026 members outside the travel distance standard of fifteen miles in four zip codes.
7. Infectious diseases providers met the required standard for 99.9% of urban enrollees, leaving 87 members outside the travel distance standard of twenty miles in one zip code.
8. Neurological surgery providers met the required standard for 99.9% of urban enrollees, leaving 161 members outside the travel distance standard of twenty miles in one zip code.
9. Acute inpatient hospital providers met the required standard for 99.8% of urban enrollees, leaving 277 members outside the travel distance standard of fifteen miles in one zip code.
10. Critical Care Services-Intensive Care Unit facilities met the required standard for 99.8% of urban enrollees, leaving 277 members outside the travel distance standard of fifteen miles in one zip code.
11. Inpatient psychiatric facilities met the required standard for 99.4% of urban enrollees, leaving 945 members outside the travel distance standard of fifteen miles in three zip codes.
12. Outpatient infusion/chemotherapy facilities meet the required standard for 99.8%% of urban enrollees, leaving 277 members outside the travel distance standard of fifteen miles in one zip code.
13. Surgical services (outpatient or ambulatory surgical center) facility providers met the required standard for 99.9% of urban enrollees, leaving 14 members outside the travel distance standard of ten miles in one zip code.

14. Other behavioral health/substance abuse facilities met the required standard for 99.5% of urban enrollees, leaving 716 members outside the travel distance standard of fifteen miles in one zip code.

When asked to provide the total number of Maryland members where the travel distance standards were not met, KFHP states in its May 27, 2021 letter that the above violations represent 3,615 unique Maryland members in 15 zip codes. With respect to access to Gynecology Only providers, KFHP contends that All Mid Atlantic Permanente Medical Group general obstetrics and gynecology providers serve both pregnant and non-pregnant members and have obstetrical and gynecologic members on their panels. By including these providers, all members had access to gynecologic care in the impacted zip codes.

Appointment Waiting Time Standards

15. The 10 calendar day appointment waiting time standard for non-urgent behavioral health/substance use disorder services was met for 75% of enrollees. This represents a deficiency of 20 percentage points when compared to the requirement that the standard be met for 95% of enrollees under COMAR 31.10.44.05A(1).

The KFHP 2020 Access Plan states that during the period between April 2019 – March 2020:

- KFHP achieved 92% appointment access within 10 calendar days for non-urgent behavioral health and substance use disorder services; the measurement being defined as the total supply of providers against appointment demand.
- KFHP's annualized data shows that 22% of available appointments went unused within this same period and as a result of this unused supply only 75% of appointments are fulfilled within the 10 calendar day standard required by regulation.

KFHP also indicated that patient preference and personal choice of location or time of day (e.g. gender, proximity to work, school or home) are considerations for selecting behavioral health providers. As such, members are offered multiple options and the member's selection of a providers may impact performance against the State's defined metric. This is especially true with child and adolescent populations wherein parents tend to prefer to schedule appointments at a time that is convenient based on the child's school schedule. Parents tend to choose later appointments during summer and other holiday breaks.

Waiver Request

The Administration has considered KFHP's request for a waiver for the appointment waiting time standard for non-urgent behavioral health/substance use disorder services. The waiver request was made on July 1, 2020, with additional information to support this request filed on April 26, 2021, May 27, 2021, and August 30, 2021.

Please be advised that the Administration has found good cause to grant the request for 1 year based on the following:

- KFHP has demonstrated that they have added a significant amount of behavioral health/substance use disorder providers, including 191 applied behavioral health analyst providers and one additional psychiatric inpatient facility;
- KFHP explained that their methodology to determine appointment access wait time used a more stringent way of assessing availability than required by COMAR 31.10.44.02B(27) and COMAR 31.10.44.05, and significantly understated the appointment availability. The methodology measured the time between the date of appointment request to the date of scheduled appointment, rather than the first date the appointment was offered, reflecting patient preference in appointment scheduling;
- KFHP stated that they are shifting to a methodology of assessing how often they are able to offer an appointment after the patient's request based on the time frames in the regulation. For example, they will be assessing the non-urgent behavioral health appointment access for KFHP providers at regular intervals to confirm consistency of appointment availability within 10 days; and
- KFHP acknowledged that in working to revise the methodology, they determined that during the time period used for appointment wait time metrics, there were always available appointments within 10 days for non-urgent behavioral health/substance use disorder visits between April 1, 2019 and March 31, 2020. KFHP provided charts to document the daily supply of appointments and the number of open available appointments on each day during the April 1, 2019 and March 31, 2020 time-period.

The waiver for the appointment waiting time standard for non-urgent behavioral health/substance use disorder services is granted for one year. It is expected that the appointment waiting time for non-urgent behavioral health/substance use disorder services will improve and that the 10 calendar day standard will be met for at least 95% of KFHP enrollees in the 2021 Access Plan filing.

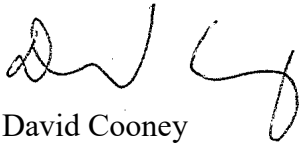
KFHP 2019 Access Plan Consent Order

On March 23, 2021, the Administration and KFHP entered into a Consent Order to resolve matters related to the KFHP 2019 Access Plan. The Administration had concluded in the Consent Order that that KFHP violated § 15-112 of the Insurance Article and COMAR 31.10.44.03C by submitting an access plan that failed to comply with certain required travel distance standards and certain appointment waiting time standards. The Administration imposed an administrative penalty on KFHP of \$50,000 for the violations, but suspended the penalty pending the Administration's (i) review of the access plan submitted by KFHP in 2021; (ii) determination as to whether the 2021 access plan substantiates representations made by KFHP related to its intent to improve its compliance with the Standards; and (iii) based on such review and determination, decision on whether the administrative penalty should be paid, reduced, or rescinded.

The KFHP 2020 Access Plan shows some improvement in compliance with the access standards, but there continue to be areas where the access standards are not met, as noted above. The KFHP 2021 Access Plan, submitted on June 25, 2021, is currently under review by the Administration. Upon completion of the review, a determination will be made on whether the administrative penalty should be paid, reduced, or rescinded.

KFHP has the right to request a hearing on this determination letter in accordance with § 2-210 of the Insurance Article. A request for a hearing must be made in writing and received by the Administration within thirty (30) days of the date of this letter. The rules for requesting a hearing are set forth in COMAR 31.02.01.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David Cooney', written over a faint horizontal line.

David Cooney
Associate Commissioner
Life and Health